

**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1. (Currently Amended) A space keeper for vertebrae or intervertebral disks comprising:  
a tube having a first end, a second end and ~~tubular section defined by~~ an outer wall and  
having a longitudinal axis extending from the first end to the second end;

a base plate connected with ~~[[an]]~~ the first end of the tube ~~tubular section~~, the base plate  
having a first section extending past the first end of the tube away from the second end of the  
tube in the longitudinal direction ~~outside the tubular section;~~ and

a top plate connected with the base plate and configured to engage a vertebral body end  
plate, wherein the top plate is tiltable relative to the first section of the base plate about an angle  
to the longitudinal axis of the tube ~~tubular section;~~

a plurality of openings in the outer wall of the tube ~~tubular section;~~ and

wherein the base plate comprises a second section that extends in a direction away from  
the top plate and that engages with the tube ~~tubular section.~~

2. (Currently Amended) The space keeper of claim 1 further comprising an elastic  
member located between the top plate and the base plate to cushion the prosthetic.

3. (Canceled)

4. (Currently Amended) The space keeper of claim 1 wherein the openings of the tube  
~~tubular section~~ are lozenge-shaped.

5. (Currently Amended) The space keeper of claim 2 wherein the top plate has teeth  
extending in the longitudinal direction to ~~[[that]]~~ engage a ~~wall of a~~ vertebral body end plate.

6. (Withdrawn) The space keeper of claim 1, wherein the base plate defines a convex  
contact face and a first annular recess; the top plate defines a concave recess and a second

annular recess wherein the concave recess is congruent with the convex contact face; and the space keeper further comprises a ring that is located between the first annular recess and second annular recess wherein the ring contacts the first annular recess and second annular recess.

7. (Withdrawn) The space keeper of claim 1 wherein the base plate defines a concave contact face and a first annular recess; the top plate defines a concave recess and a second annular recess; and the space keeper further comprises:

a biconvex shaped core positioned between the base plate and the top plate, the core defining a top convex face and a base convex face that engage the concave contact face and concave recess, respectively, the core also defining a top annular recess and a base annular recess; and

a first ring located between the first annular recess and base annular recess and a second ring located between the top annular recess and second annular recess.

8. (Withdrawn) The space keeper of claim 1 wherein the base plate defines a concave contact face; the top plate defines a concave recess; and the space keeper further comprises:

a core comprised of a top plan-convex lenticular body defining a top convex face, a base plan-convex lenticular body defining a base convex face, and a plan-parallel plate between the top plan-convex lenticular body and base plan-convex lenticular body, the core defining a bore, said top convex face engaging the concave recess and said base convex face engaging the concave contact face; and

a connecting sleeve located within the bore wherein the connecting sleeve connects the top plate with the base plate.

9. (Withdrawn) The space keeper of claim 1 wherein the base plate defines a concave contact face; the top plate defines a concave recess; and the space keeper further comprises:

a core comprised of a top plan-convex lenticular body defining a top convex face and a first annular recess, a base plan-convex lenticular body defining a base convex face and a second annular recess, said top convex face engaging the concave recess and said base convex face engaging the concave contact face, the core also defining a bore;

a connecting sleeve located within the bore wherein the connecting sleeve connects the top plate with the base plate; and

a ring located between the first annular recess and second annular recess.

10. (Withdrawn) The space keeper of claim 1 wherein the base plate defines a flat face; the top plate defines a concave recess; and the space keeper further comprises:

a core comprised of a plan-convex lenticular body defining a top convex face and a plan-parallel plate, said top convex face engaging the concave recess and said plan parallel plate being located between the flat face and the plan-convex lenticular body, the core also defining a bore; and

a connecting sleeve located within the bore wherein the connecting sleeve connects the top plate with the base plate.

11. (Withdrawn) The space keeper of claim 1 wherein the base plate defines a flat face having a first annular recess; the top plate defines a concave recess; and the space keeper further comprises:

a core comprised of a plan-convex lenticular body defining a top convex face and a second annular recess, said top convex face engaging the concave recess, the core also defining a bore;

a connecting sleeve located within the bore wherein the connecting sleeve connects the top plate with the base plate; and

a ring located between the first annular recess and second annular recess.

12. (Currently Amended) A space keeper for vertebrae or intervertebral disks comprising:

a tube ~~tubular-section~~ having a first end and a second end and a longitudinal axis extending from the ~~and having a first end to the~~ and a second end;

a first element proximate to the first end of the tube ~~tubular-section~~ wherein the first element has a base plate connected with the first end of the tube ~~tubular-section~~, a top plate connected with the base plate and configured to engage a vertebral body end plate, and an elastic

member located between the top plate and the base plate, wherein the base plate includes a first section extending past the first end of the tube away from the second end of the tube in the longitudinal direction ~~outside the tubular section~~; and

a second element proximate to the second end of the tube ~~tubular section~~ wherein the second element has a base plate connected with the second end of the tube ~~tubular section~~, a top plate connected with the base plate and configured to engage a vertebral body end plate, and an elastic member located between the top plate and the base plate, wherein the base plate includes a first section extending past the second end of the tube away from the first end of the tube in the longitudinal direction ~~outside the tubular section~~;

wherein the top plates are tiltable relative to the first sections of the corresponding base plates about an angle to the longitudinal axis of the tubular section;

wherein the tube ~~tubular section~~ defines a plurality of openings; and

wherein each of the base plates comprises a second section that extends in a direction away from the corresponding top plate and that engages with the tube ~~tubular section~~.

13. (Cancelled)

14. (Currently Amended) The space keeper of claim 12 wherein the openings of the tube ~~tubular section~~ are lozenge-shaped.

15. (Currently Amended) The space keeper of claim 12 wherein each top plate has teeth extending in the longitudinal direction to ~~engage a wall of a vertebral body end plate~~ [[that]].

16. (New) The space keeper of claim 1 wherein the tube defines a bore extending in the longitudinal direction through the tube, the plurality of openings extending transversely through the wall to the bore.

17. (New) The space keeper of claim 16 wherein the plurality of openings form a grid pattern in the wall.

18. (New) The space keeper of claim 17 wherein the grid pattern is repetitive along the longitudinal direction.

**Appln No. 10/660,453**  
**Amdt date November 14, 2008**

19. (New) The space keeper of claim 18 wherein the total area of open portions in the tube exceeds the total area of wall portions.

20. (New) The space keeper of claim 5 wherein the second end of the tube has teeth extending in the longitudinal direction to engage a second vertebral body end plate.

21. (New) The space keeper of claim 16 wherein the tube is a cylindrical casing.

22. (New) The space keeper of claim 16 wherein the second section of the base plate extends inside the bore of the tube.

23. (New) The space keeper of claim 22 wherein the first end of the tube abuts the first section of the base plate.